



Reprinted
February 27, 2008

ENGROSSED SENATE BILL No. 43

DIGEST OF SB 43 (Updated February 26, 2008 8:50 pm - DI 75)

Citations Affected: IC 6-1.1; IC 8-1.5; IC 13-14; IC 13-21; IC 36-9; noncode.

Synopsis: Environmental matters. Exempts certain wetlands from property taxation. Requires, with respect to environmental rules subject to automatic expiration, the department of environmental management (IDEM) or the appropriate rulemaking board to publish a notice identifying which of the rules will be readopted. Requires IDEM or the board, on request of a person, to consider readoption of an environmental rule that IDEM or the board proposes to allow to expire. Establishes procedures to prevent a county department of storm water management and a municipal works board from imposing fees in the same area for storm water management. Requires a utility to give certain notice to a property owner before trimming trees on the property. Requires the utility to attempt to resolve any issues raised by the property owner before trimming the trees. Provides that a joint solid waste management district has the power to pay a fee to a county that (1) was part of the joint district; (2) has withdrawn from the district as of January 1, 2008; and (3) has established its own district in which a final disposal facility is located.

Effective: January 1, 2008 (retroactive); upon passage.

Gard, Riegsecker

(HOUSE SPONSORS — DVORAK, WOLKINS)

January 8, 2008, read first time and referred to Committee on Energy and Environmental Affairs.

January 16, 2008, amended, reported favorably — Do Pass.

January 24, 2008, read second time, amended, ordered engrossed.

January 25, 2008, engrossed.

January 28, 2008, read third time, passed. Yeas 46, nays 1.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Environmental Affairs.

February 21, 2008, amended, reported — Do Pass.

February 26, 2008, read second time, amended, ordered engrossed.

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ES 43—LS 6265/DI 52+



Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 43

A BILL FOR AN ACT to amend the Indiana Code concerning
environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 44. (a) As used in this**
4 **section, "wetlands" means transitional lands between terrestrial**
5 **and aquatic systems where the water table is at or near the surface**
6 **or the land is covered by shallow water. The term does not include**
7 **public waters wetlands or income producing wetlands.**
8 **(b) Wetlands are exempt from property taxation if the wetlands:**
9 **(1) have a predominance of hydric soil;**
10 **(2) are inundated or saturated by surface or ground water at**
11 **a frequency and duration sufficient to support a prevalence of**
12 **hydrophytic vegetation typically adapted for life in saturated**
13 **soil conditions; and**
14 **(3) under normal circumstances support vegetation described**
15 **in subdivision (2).**
16 **(c) The exemption of wetlands from property taxation under**
17 **this section does not:**

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(1) grant the public any additional or greater right of access to any wetlands; and

(2) diminish any right of ownership to any wetlands.

SECTION 2. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) **Except as provided in IC 36-9-23-37**, the board, after holding a public hearing with notice given under IC 5-3-1 and obtaining the approval of the fiscal body of the unit served by the department, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

- (1) A flat charge for each lot, parcel of property, or building.
- (2) The amount of impervious surface on the property.
- (3) The number and size of storm water outlets on the property.
- (4) The amount, strength, or character of storm water discharged.
- (5) The existence of improvements on the property that address storm water quality and quantity issues.
- (6) The degree to which storm water discharged from the property affects water quality in the storm water district.
- (7) Any other factors the board considers necessary.

(e) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

- (1) variations in the costs, including capital expenditures, of

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furnishing services to various classes of users or to various locations;

(2) variations in the number of users in various locations; and

(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

SECTION 3. IC 13-14-9.5-4, AS AMENDED BY P.L.123-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b), **with respect to the rules subject to expiration under this chapter**, the department or a board that has rulemaking authority under this title:

(1) may readopt ~~at one (1) or more of the rules subject to expiration under this chapter~~ under one (1) rule that lists all rules that are readopted by their titles and subtitles only; **and**

(2) **shall publish a notice in the Indiana Register identifying:**

(A) **the rules, if any, that will be readopted; and**

(B) **the rules, if any, that will not be readopted.**

A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

(b) If a person submits to the department or a board that has rulemaking authority under this title a written request ~~and stating~~ a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule described in subsection (a), the department or board must:

(1) ~~readopt~~ **consider readoption of** that rule separately from the readoption rule described in subsection (a); and

(2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

(c) If the department or board does not receive a written request under subsection (b) regarding a rule within the first comment period, the agency may:

(1) submit the **readoption** rule for filing with the publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule; or

(2) **for one (1) or more of the rules proposed to be readopted as part of the readoption rule described in subsection (a), elect the procedure for readoption under IC 13-14-9.**

(d) **If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule that the department or board does not intend to readopt as part of the readoption rule described in subsection (a) be readopted, the department or board must:**

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- 1 **(1) consider readoption of that rule separately from the**
 2 **readoption rule described in subsection (a); and**
 3 **(2) follow the procedure for adoption of administrative rules**
 4 **under IC 13-14-9 with respect to the rule.**

5 SECTION 4. IC 13-21-3-12 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Except as
 7 provided in section 14.5 of this chapter, the powers of a district
 8 include the following:

9 (1) The power to develop and implement a district solid waste
 10 management plan under IC 13-21-5.

11 (2) The power to impose district fees on the final disposal of solid
 12 waste within the district under IC 13-21-13.

13 (3) The power to receive and disburse money, if the primary
 14 purpose of activities undertaken under this subdivision is to carry
 15 out the provisions of this article.

16 (4) The power to sue and be sued.

17 (5) The power to plan, design, construct, finance, manage, own,
 18 lease, operate, and maintain facilities for solid waste
 19 management.

20 (6) The power to enter with any person into a contract or an
 21 agreement that is necessary or incidental to the management of
 22 solid waste. Contracts or agreements that may be entered into
 23 under this subdivision include those for the following:

24 (A) The design, construction, operation, financing, ownership,
 25 or maintenance of facilities by the district or any other person.

26 (B) The managing or disposal of solid waste.

27 (C) The sale or other disposition of materials or products
 28 generated by a facility.

29 Notwithstanding any other statute, the maximum term of a
 30 contract or an agreement described in this subdivision may not
 31 exceed forty (40) years.

32 (7) The power to enter into agreements for the leasing of facilities
 33 in accordance with IC 36-1-10 or IC 36-9-30.

34 (8) The power to purchase, lease, or otherwise acquire real or
 35 personal property for the management or disposal of solid waste.

36 (9) The power to sell or lease any facility or part of a facility to
 37 any person.

38 (10) The power to make and contract for plans, surveys, studies,
 39 and investigations necessary for the management or disposal of
 40 solid waste.

41 (11) The power to enter upon property to make surveys,
 42 soundings, borings, and examinations.

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(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream; if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

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- 1 (D) Apply for a household hazardous waste project grant as
 2 described in IC 13-20-22-2 and carry out all commitments
 3 contained in a grant application.
- 4 (19) The power to enter into an interlocal cooperation agreement
 5 under IC 36-1-7 to obtain:
- 6 (A) fiscal;
 7 (B) administrative;
 8 (C) managerial; or
 9 (D) operational;
- 10 services from a county or municipality.
- 11 (20) The power to compensate advisory committee members for
 12 attending meetings at a rate determined by the board.
- 13 (21) The power to reimburse board and advisory committee
 14 members for travel and related expenses at a rate determined by
 15 the board.
- 16 (22) In a joint district, the power to pay a fee from district money
 17 to:
- 18 (A) the **county or** counties in the district in which a final
 19 disposal facility is located; **or**
- 20 (B) **a county that:**
- 21 (i) **was part of a joint district;**
 22 (ii) **has withdrawn from the district as of January**
 23 **1, 2008; and**
 24 (iii) **has established its own district in which a final**
 25 **disposal facility is located.**
- 26 (23) The power to make grants or loans of:
- 27 (A) money;
 28 (B) property; or
 29 (C) services;
- 30 to public or private recycling programs, composting programs, or
 31 any other programs that reuse any component of the waste stream
 32 as a material component of another product, if the primary
 33 purpose of activities undertaken under this subdivision is to carry
 34 out the provisions of this article.
- 35 (24) The power to establish by resolution a nonreverting capital
 36 fund. A district's board may appropriate money in the fund for:
- 37 (A) equipping;
 38 (B) expanding;
 39 (C) modifying; or
 40 (D) remodeling;
- 41 an existing facility. Expenditures from a capital fund established
 42 under this subdivision must further the goals and objectives

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contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

(A) the reuse and recycling of mercury in:

- (i) mercury commodities; and
- (ii) mercury-added products; and

(B) collection programs available to the public for:

- (i) mercury commodities; and
- (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

SECTION 5. IC 36-9-23-5, AS AMENDED BY P.L.1-2007, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As used in sections 6 through ~~36~~ 37 of this chapter, "board" means:

- (1) the municipal works board; or
- (2) if the municipality has transferred the powers and duties of the works board under section 3 of this chapter, the:

- (A) sanitary board; or
- (B) utility service board;

to which those powers have been transferred.

SECTION 6. IC 36-9-23-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) **Subject to section 37 of this chapter**, the municipal legislative body shall, by ordinance, establish just and equitable fees for the services rendered by the sewage works, and provide the dates on which the fees are due.

(b) Just and equitable fees are the fees required to maintain the sewage works in the sound physical and financial condition necessary to render adequate and efficient service. The fees must be sufficient to:

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(1) pay all expenses incidental to the operation of the works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals, and interest charges on bonds or other obligations;

(2) provide the sinking fund required by section 21 of this chapter;

(3) provide adequate money to be used as working capital; and

(4) provide adequate money for improving and replacing the works.

Fees established after notice and hearing under this chapter are presumed to be just and equitable.

(c) The fees are payable by the owner of each lot, parcel of real property, or building that:

(1) is connected with the sewage works by or through any part of the municipal sewer system; or

(2) uses or is served by the works.

Unless the municipal legislative body finds otherwise, the works are considered to benefit every lot, parcel of real property, or building connected or to be connected with the municipal sewer system as a result of construction work under the contract, and the fees shall be billed and collected accordingly.

(d) The municipal legislative body may use one (1) or more of the following factors to establish the fees:

(1) A flat charge for each sewer connection.

(2) The amount of water used on the property.

(3) The number and size of water outlets on the property.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Whether the property has been or will be required to pay separately for any part of the sewage works.

(7) Whether the property, although vacant or unimproved, is benefited by a local or lateral sewer because of the availability of that sewer. However, the owner must have been notified, by recorded covenants and restrictions or deed restrictions in the chain of title of his property, that a fee or assessment for sewer availability may be charged, and the fee may reflect only the capital cost of the sewer and not the cost of operation and maintenance of the sewage works.

(8) The cost of collecting, treating, and disposing of garbage in a sanitary manner, including equipment and wages.

(9) The amount of money sufficient to compensate the

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municipality for the property taxes that would be paid on the sewage works if the sewage works were privately owned.

(10) Any other factors the legislative body considers necessary.

Fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works. The board may transfer fees collected in lieu of taxes under subdivision (9) to the general fund of the municipality.

(e) The municipal legislative body may exercise reasonable discretion in adopting different schedules of fees, or making classifications in schedules of fees, based on variations in:

(1) the costs, including capital expenditures, of furnishing services to various classes of users or to various locations; or

(2) the number of users in various locations.

SECTION 7. IC 36-9-23-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) After the introduction of the ordinance establishing fees under section 25 of this chapter, but before it is finally adopted, the municipal legislative body shall hold a public hearing at which users of the sewage works, owners of property served or to be served by the works, and other interested persons may be heard concerning the proposed fees. Notice of the hearing, setting forth the proposed schedule of fees, shall be:

(1) published in accordance with IC 5-3-1;

(2) mailed to owners of vacant or unimproved property if the ordinance includes a fee for sewer availability to vacant or unimproved property; and

(3) mailed to users of the sewage works located outside the municipality's corporate boundaries.

The notice may be mailed in any form so long as the notice of the hearing is conspicuous. The hearing may be adjourned from time to time.

(b) After the hearing, the municipal legislative body shall adopt the ordinance establishing the fees, either as originally introduced or as modified. A copy of the schedule of fees adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk.

(c) **Subject to section 37 of this chapter**, the fees established for any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(d) The municipal legislative body may change or readjust the fees in the same manner by which they were established.

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(e) Fees collected under this chapter are considered revenues of the sewage works.

SECTION 8. IC 36-9-23-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. **(a) Except as provided in subsections (b) and (c),** a municipality may exercise powers granted by this chapter in areas within ten (10) miles outside its corporate boundaries. ~~However, this~~

(b) The mileage limitation **in subsection (a)** does not apply to the provision of sewage treatment service for an entity that is described in section 16(b)(2) of this chapter.

(c) In an area referred to in subsection (a), a municipality may not:

(1) impose fees under this chapter; or

(2) otherwise exercise powers granted by this chapter;

to provide storm water management services to the area if the county provides storm water management services to the area under IC 8-1.5-5.

SECTION 9. IC 36-9-23-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. **(a) As used in this section:**

(1) "service" means:

(A) imposing fees; and

(B) otherwise exercising powers;

to provide storm water management services; and

(2) "storm water board" refers to a board defined in IC 8-1.5-5-2.

(b) This section applies only if actions of:

(1) a board under section 36 of this chapter; and

(2) a storm water board under IC 8-1.5-5;

are pending at the same time to service the same area outside a municipality's corporate boundaries.

(c) The board and the storm water board must negotiate the adoption by the board and the storm water board of a memorandum of understanding that permits only the board or only the storm water board to service the area referred to in subsection (b). Neither the board nor the storm water board may service the area before a memorandum of understanding is adopted under this subsection. The entity designated to service the area in the memorandum of understanding may finalize the entity's action referred to in subsection (b). The entity not designated to service the area in the memorandum of understanding must terminate the entity's action referred to in

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1 subsection (b).

2 SECTION 10. [EFFECTIVE JANUARY 1, 2008
3 (RETROACTIVE)] IC 6-1.1-10-44, as added by this act, applies to
4 property taxes first due and payable after December 31, 2008.

5 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this
6 SECTION, "committee" refers to the regulatory flexibility
7 committee established by IC 8-1-2.6-4.

8 (b) During the 2008 interim, the committee shall study the tree
9 trimming practices of utilities.

10 (c) The committee shall prepare a report on the committee's
11 recommendations, if any, concerning the issue described in
12 subsection (b) and shall submit the report to the legislative council
13 in an electronic format under IC 5-14-6 not later than December
14 1, 2008.

15 (d) This SECTION expires January 1, 2009.

16 SECTION 12. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 43, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 4, strike "and" and insert "**stating**".

Page 3, line 8, strike "readopt" and insert "**consider readoption of**".

Page 3, line 15, after "submit the" insert "**readoption**".

Page 3, line 18, after "(2)" insert "**for one (1) or more of the rules proposed to be readopted as part of the readoption rule described in subsection (a),**".

Page 3, between lines 18 and 19, begin a new paragraph and insert:

"(d) If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule that the department or board does not intend to readopt as part of the readoption rule described in subsection (a) be readopted, the department or board must:

(1) consider readoption of that rule separately from the readoption rule described in subsection (a); and

(2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule."

Page 3, line 36, after "product" insert ".".

Page 3, line 36, delete "by".

Page 3, delete line 37.

Page 4, line 24, delete "by incineration." and insert "**only if the balance in the waste tire management fund is insufficient, as determined by the commissioner, to remove and dispose of one-half (1/2) of the total number of waste tires located at tire sites in Indiana that are not certified under IC 13-20-13-3.**".

and when so amended that said bill do pass.

(Reference is to SB 43 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 43 be amended to read as follows:

Page 4, delete lines 33 through 39, begin a new paragraph and insert:

"(g) In providing grants and loans under subsection (a)(5), the department shall:

- (1) consider electronic waste projects; and**
- (2) consider technologies for the conversion of waste tires into energy or another useful product only if the balance in the waste tire management fund is insufficient, as determined by the commissioner, to remove and dispose of one-half (1/2) of the total number of waste tires located at tire sites in Indiana that are not certified under IC 13-20-13-3."**

(Reference is to SB 43 as printed January 17, 2008.)

GARD

SENATE MOTION

Madam President: I move that Senator Riegsecker be added as second author of Engrossed Senate Bill 43.

GARD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 43, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 2, delete lines 28 through 31.
- Page 3, delete lines 31 through 42.
- Page 4, delete lines 1 through 41.
- Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 43 as reprinted January 25, 2008.)

DVORAK, Chair

Committee Vote: yeas 8, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 43 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 44. (a) As used in this section, "wetlands" means transitional lands between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water. The term does not include public waters wetlands or income producing wetlands.**

(b) Wetlands are exempt from property taxation if the wetlands:

- (1) have a predominance of hydric soil;**
- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and**
- (3) under normal circumstances support vegetation described in subdivision (2).**

(c) The exemption of wetlands from property taxation under this section does not:

- (1) grant the public any additional or greater right of access to any wetlands; and**
- (2) diminish any right of ownership to any wetlands."**

Page 7, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-1.1-10-44, as added by this act, applies to property taxes first due and payable after December 31, 2008."**

Re-number all SECTIONS consecutively.

(Reference is to ESB 43 as printed February 22, 2008.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 43 be amended to read as follows:

Page 7, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this**

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SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.

(b) During the 2008 interim, the committee shall study the tree trimming practices of utilities.

(c) The committee shall prepare a report on the committee's recommendations, if any, concerning the issue described in subsection (b) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2008.

(d) This SECTION expires January 1, 2009."

Renumber all SECTIONS consecutively.

(Reference is to ESB 43 as printed February 22, 2008.)

CROOKS

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 43 be amended to read as follows:

Page 3, between lines 26 and 27, begin a new line block indented and insert:

"SECTION 2. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
- (4) The power to sue and be sued.
- (5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
- (6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
 - (A) The design, construction, operation, financing, ownership,

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or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law.

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However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

- (A) fiscal;
- (B) administrative;
- (C) managerial; or
- (D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) In a joint district, the power to pay a fee from district money to:

(A) the county or counties in the district in which a final disposal facility is located; or

(B) a county that:

- (i) was part of a joint district;**
- (ii) has withdrawn from the district as of January 1, 2008; and**
- (iii) has established its own district in which a final**

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disposal facility is located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;
- (C) modifying; or
- (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

- (A) the reuse and recycling of mercury in:
 - (i) mercury commodities; and
 - (ii) mercury-added products; and
- (B) collection programs available to the public for:
 - (i) mercury commodities; and
 - (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

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Renumber all SECTIONS consecutively.

(Reference is to ESB 43 as printed February 22, 2008.)

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